

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Raquel Velasquez	Team: Squad #12	CCRB Case #: 201608018	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 09/18/2016 12:30 AM	Location of Incident: Worlds Fair Marina Park	Precinct: 110	18 Mo. SOL 3/18/2018	EO SOL 3/18/2018	
Date/Time CV Reported Sun, 09/18/2016 2:31 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sun, 09/18/2016 2:31 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Christophe Haws	30982	953955	110 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Daniel Puglia	11423	957056	110 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Christophe Haws	Abuse: Police Officer Christopher Haws searched the vehicle in which § 87(2)(b) was an occupant.	
B.POM Christophe Haws	Abuse: Police Officer Christopher Haws seized § 87(2)(b)'s property.	
C.POM Christophe Haws	Force: Police Officer Christopher Haws used physical force against § 87(2)(b)	

Case Summary

On September 18, 2016, § 87(2)(b) filed this complaint with the CCRB via the Call Processing System.

On September 18, 2016, at approximately 12:30 a.m., Police Officer Christopher Haws and Police Officer Daniel Puglia, from the 110th Precinct, responded to World's Fair Marina Park in Queens. PO Haws entered § 87(2)(b)'s vehicle and removed the key from the ignition, a speaker from the rear seat, and a subwoofer from the trunk (**Allegation A**). PO Haws seized the items and vouchered them as arrest evidence (**Allegation B**). PO Haws pushed § 87(2)(b) once in the chest (**Allegation C**). § 87(2)(b) was issued two summonses for § 87(2)(b) (**Board Review 01**).

There is no video evidence of this incident.

§ 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) did not respond to mediation attempts.
- As of December 8, 2016, § 87(2)(b) has not file a Notice of Claim regarding this incident (**Board Review 02**).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian and Officer CCRB Histories

- This is § 87(2)(b)'s first CCRB complaint (**Board Review 04**).
- PO Haws has been a member of the service for three years and there are no substantiated CCRB allegations against him. § 87(2)(g)

Findings and Recommendations

Allegation A: Abuse of Authority- Police Officer Christopher Haws searched the vehicle in which § 87(2)(b) was an occupant.

Allegation B: Abuse of Authority- Police Officer Christopher Haws seized § 87(2)(b)'s property.

It is undisputed that § 87(2)(b) his friends § 87(2)(b) and unidentified individuals were congregating in the parking lot of World's Fair Marina Park after dark. It is undisputed that § 87(2)(b) played music from a speaker and connected to his vehicle, a 2001 4-door Honda CRV. It is also undisputed that PO Haws entered § 87(2)(b)'s vehicle and seized a speaker and a subwoofer.

§ 87(2)(b) stated that the driver side door of his vehicle and the ignition was on because he and his friends were getting ready to leave. § 87(2)(b) had a speaker which was propped up on the back seat of his vehicle and a subwoofer in the trunk. Music played from his vehicle for approximately fifteen minutes. Music was not playing from his vehicle when PO Haws and PO Puglia arrived. PO Haws and PO Puglia approached § 87(2)(b) and his

friends, and said something but § 87(2)(b) and his friends did not understand what the officers said because they neither speak nor understand English. PO Haws then entered § 87(2)(b)'s vehicle through the driver side door and removed the key from the ignition. PO Haws exited the vehicle, opened the passenger door, and removed the speaker and placed it on the ground. PO Haws then walked to the rear of § 87(2)(b)'s vehicle, opened the trunk and removed the subwoofer. PO Haws never asked to enter or search § 87(2)(b)'s vehicle. PO Haws took the speaker and the subwoofer and placed them in the marked car. PO Haws returned and handed § 87(2)(b) two summonses for § 87(2)(b) (Board Review 05).

§ 87(2)(b) also stated that music was not playing from § 87(2)(b)'s vehicle when the officers arrived. According to § 87(2)(b) PO Haws approached and asked to whom the vehicle belonged and § 87(2)(b) stated that the vehicle belonged to § 87(2)(b) PO Haws then entered through the driver side door and removed the key from the ignition. PO Haws opened the window portion of the trunk, picked up the subwoofer, and removed it from the vehicle. PO Haws then went to the right passenger seat and removed the speaker from the seat. PO Haws did not ask for permission to search the vehicle. § 87(2)(b) did not hear any conversation between PO Haws and § 87(2)(b) (Board Review 06).

§ 87(2)(b) stated that the vehicle ignition was off. PO Haws asked to whom the vehicle belonged and § 87(2)(b) pointed to § 87(2)(b) and said it was his. PO Haws did not say anything else, but he approached § 87(2)(b)'s vehicle, opened the driver side door, and took the key from the ignition. PO Haws then approached the back seats and looked inside, but § 87(2)(b) did not see what, if anything, he did. § 87(2)(b) stated, "You can look at everything you want because we don't have anything." PO Haws then opened the trunk by pressing a button in the front of the vehicle. PO Haws removed one speaker from the trunk and he placed it in the marked car. § 87(2)(b) was not sure if PO Haws took anything else from § 87(2)(b)'s vehicle (Board Review 08).

§ 87(2)(b) stated that the vehicle ignition was on. § 87(2)(b) exited his car when the officers arrived, but he did not speak to the officers. The officers asked to whom the vehicle belonged and § 87(2)(b) stated it was his. PO Haws approached the driver side and pressed a button to open the trunk. PO Haws then approached the trunk and removed the speaker. PO Haws then opened the right passenger door and removed the speaker from the back seat. PO Haws took both speakers and placed them in the police car. PO Haws did not ask for permission to enter or search § 87(2)(b)'s vehicle (Board Review 07).

PO Haws and PO Puglia were assigned to a directed patrol at the incident location due to a chronic condition in which people congregate in the park after dark and have parties, street race, ride dirt bikes, drink alcohol, and use drugs. There is only one entrance into the park but there are signs throughout the park indicating that it is closed after dark. There are three or four sections of parking lots that lead into the park. Each parking lot is 50 yards long and 50 yards wide. The officers drove through the parking lots and heard loud music. In the last section of the parking lots, the officers saw approximately 50 to 100 people congregating. There were multiple cars and motorcycles parked inside, but the officers identified § 87(2)(b)'s vehicle as the vehicle playing the loud music. The officers pulled up next to § 87(2)(b)'s vehicle and

approached the vehicle. The vehicle was unoccupied, but the engine was running (**Board Review 09 and 10**).

PO Haws stated that there were civilians standing around the vehicle, but everyone walked away when the officers pulled up. PO Haws did not recall if any of the doors or the windows of the vehicle were open. He did not recall if he retrieved the car keys first or whether he asked who owned the vehicle. PO Haws asked § 87(2)(b) whose identity was unknown at the time, to whom the vehicle belonged. § 87(2)(b) stated in English that he did not know, shrugged his shoulders, and walked away. PO Haws entered through the driver side of the vehicle and retrieved the key from the ignition. PO Haws did this because he was conducting an investigation into an abandoned vehicle with the engine running. PO Haws then returned to the marked car. Approximately a minute later, § 87(2)(b) approached PO Haws and stated in English that the vehicle was his. PO Haws retrieved § 87(2)(b)'s identification and retrieved a speaker and a subwoofer from § 87(2)(b)'s vehicle. PO Haws did not ask permission to enter § 87(2)(b)'s vehicle. PO Haws went to the rear of § 87(2)(b)'s vehicle and opened the trunk to retrieve the subwoofer. PO Haws placed the subwoofer in the rear of the marked car. PO Haws might have opened the rear door to take the subwoofer out because the trunk was an open area and was visible from the back seat. It was possible that PO Haws reached over the back seat of the vehicle to untwist the cables connected to the subwoofer. PO Haws did not recall if the speaker was inside or outside of the vehicle. The officers did not give § 87(2)(b) any warnings to lower the music because the location was a chronic situation within the precinct. PO Haws wrote § 87(2)(b) two summonses. PO Haws explained that when issuing a § 87(2)(b), officers must retrieve the amplification equipment and voucher it as evidence (**Board Review 09**). Both the subwoofer and the speaker were vouchered as evidence (**Board Review 11**).

PO Puglia stated he believed the driver side door of § 87(2)(b)'s vehicle was open. PO Haws asked the three to four males standing near the vehicle to whom the vehicle belonged, but they shrugged their shoulders and did not respond. PO Haws then approached the vehicle, reached inside through the driver side door, and turned the ignition off. PO Haws then proceeded to remove the speakers from the vehicle. PO Puglia initially stated that a speaker was on the back seat of the vehicle, however, he later stated that the speaker might have been outside of the vehicle. PO Haws grabbed the speaker and placed it in the marked car. PO Haws then approached the rear of § 87(2)(b)'s vehicle. PO Puglia opened the trunk by lifting the lid without issue. PO Haws stood next to PO Puglia, but he did not recall on which side. Once PO Puglia opened the trunk, both he and PO Haws removed the subwoofer from the trunk. While removing the speakers from the vehicle, § 87(2)(b) approached the officers and stated in English that the vehicle was his (**Board Review 10**).

People v. Smith states an officer can search a vehicle without a warrant if he has probable cause to believe that contraband, evidence of a crime, a weapon or some means of escape lies therein, People v. Smith, 949 N.Y.S.2d 474 (N.Y. App. Div. 2nd Dept. 2012) Arizona v. Gant, states a vehicle search incident to a lawful arrest is permitted only if it is reasonable to believe that the vehicle contains evidence related to the charged offense, Arizona v. Gant, 129 S. Ct. 1710 (2009) (**Board Review 12**).

Patrol Guide Procedure 214-23 directs officers to seize sound reproduction devices as evidence that the violator possessed the device and that the device was operable when issuing an unreasonable noise summons. The procedure specifies that reproduction devices will not be seized from motor vehicles (**Board Review 13**).

§ 87(2)(g)
[REDACTED]

Allegation C: Force- Police Officer Christopher Haws used physical force against § 87(2)(b)

It is undisputed that PO Haws pushed § 87(2)(b)

§ 87(2)(b) stated that PO Haws appeared to have trouble opening the trunk so he approached PO Haws to assist him. PO Haws turned around and pushed § 87(2)(b) in the chest, causing him to take a few steps back (**Board Review 05**)

PO Haws stated that § 87(2)(b) came up on him as he began to open the trunk. PO Haws told § 87(2)(b) “I got it. Back off.” He did not recall if § 87(2)(b) responded, but he got close enough that his left arm touched PO Haws’ right shoulder. Consequently, PO Haws pushed him back once. § 87(2)(b) stayed back thereafter and did not say anything (**Board Review 09**).

PO Puglia stated that while he and PO Haws opened the trunk, § 87(2)(b) approached PO Haws and got “a little too” close to him. PO Puglia did not see if § 87(2)(b) made contact with PO Haws. PO Haws told § 87(2)(b) to step back. However, § 87(2)(b) continued to approach PO Haws. PO Haws put his hand out and pushed § 87(2)(b) once in the chest (**Board Review 10**).

§ 87(2)(g)
[REDACTED]

Squad: 12

Investigator:	<u>Raquel Velasquez</u>	
Signature	Print	Date
Squad Leader:	<u>SI Nicholas Carayannis</u>	<u>December 21, 2016</u>
Signature	Title/Print	Date